

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

ARTRO NE CHEATHAM

MOVANT/PETITIONER,

VS.

UNITED STATES OF AMERICA

RESPONDENT.

CR. No. 02-07-N

Civil No. (To be furnished by the Court)

MEMORANDUM IN SUPPORT OF MOTION PURSUANT
TO 28 U.S.C. §2255 TO VACATE,
SET ASIDE, OR CORRECT SENTENCE BY A PERSON IN
FEDERAL CUSTODY

BRIEF OF ARTRONE CHEATHAM

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CERTIFICATE OF INTERESTED PARTIES AND DISCLOSURE STATEMENT

Movant/Petitioner Artrone Cheatham, filing in a pro se capacity, certifies that the following listed persons and parties have an interest in the outcome of this case:

1. Artrone Cheatham, a federal prisoner, I.D. No. 1102-002; currently incarcerated at the Federal Correctional Complex-Low, P.O. Box 9000, Forrest City, AR 72336-9000.

2. Honorable Mark E. Fuller, United States District Judge, Middle District of Alabama, P.O. Box 711, Montgomery, Alabama 36101-0711.

3. United States Attorney, Leura Garrett Canary, Middle District of Alabama, P.O. Box 197, Montgomery, Alabama 36101-0197.

4. Assistant United States Attorney, Todd A. Brown, P.O. Box 197, Montgomery, Alabama 36101-0197.

5. Donald G. Madison, Esquire, 609 South McDonough Street, Montgomery, Alabama 36104.

6. Maurice S. Bell, Esquire, 609 South McDonough Street, Montgomery, Alabama 36104.

7. Jimmy Carter Jr., a federal prisoner, I.D. No. 10986-002; currently incarcerated at the Federal Correctional Institution, P.O. Box 34550, Memphis, Tennessee 38138-0550.

(v)

STATEMENT OF JURISDICTION

Movant/Petitioner Artrone Cheatham, is a federal prisoner in custody under sentence of a court established by Act of Congress, invoking the jurisdiction of this court pursuant to 28 U.S.C. 2255. Final judgment was entered in the United States District Court for the Middle District of Alabama, following the joint trial of Mr. Cheatham and Mr. Carter, and jury verdict was entered on June 19, 2003; before the Honorable Mark E. Fuller, United States District Judge. The Court sentenced Cheatham on September 23, 2003, to 235 months to be served in the Federal Bureau of Prisons. Mr. Cheatham, filed his timely Restated and Joint Notice of Appeal(Doc 281).

On February 19, 2004, Attorney Donald G. Madison, submitted the Joint Direct Appeal Brief, Case No. 03-13602-D, on behalf of Mr. Cheatham and Mr. Carter; to the Eleventh Circuit Court of Appeals. Assistant United States Attorney, Todd A. Brown, submitted his Appellee Brief on March 5th, 2004. On August 2, 2004, the Eleventh Circuit Court of Appeals, affirmed the convictions of both Cheatham and Carter. Attorney Madison, submitted a timely application for Rehearing En Banc; that was subsequently denied by the Eleventh Circuit Court of Appeals, dated October 27, 2004.

A timely filed Petition for Writ of Certiorari was submitted by Attorney Madison, on behalf of Artrone Cheatham solely; and the Supreme Court issued Order denying Petitioner's Writ of Certiorari on March 7, 2005. Therefore, Petitioner's 28 U.S.C. 2255 petition is timely filed under the 1-year period of limitation, from the date the judgment of conviction became final. This Court has jurisdiction pursuant to 28 U.S.C. 2255.

STATEMENT OF THE CASE

A. HISTORY OF THE PROCEEDINGS AND STATEMENT OF FACTS.

On August 15, 2002, a federal grand jury seated in the Middle District of Alabama, returned a six-count superseding indictment; charging Carter and Artrone Cheatham with conspiring to distribute and possess with intent to distribute cocaine and cocaine base, along with the four substantive counts relating to Carter, and a count charging Cheatham with possessing cocaine base with intent to distribute it.

On May 5, 2003, Cheatham's jury trial began. Cheatham was tried separately, and his trial resulted in a hung jury. The note from the jury dated May 7, 2003, stated that the jury was at an impasse and sought the Court's counsel. On May 8, 2003, the jury in the Artrone Cheatham severed trial advised the Court that each side, based on their deep convictions, remained in a stale-mate. The Court subsequently declared a mistrial in Cheatham's severed case.

Due to the fact that the Government could not successfully make their case against Cheatham in the severed trial; on May 8, 2003, after the mistrial, the Government then filed a Motion to Join the trial of Carter and Cheatham. Although, motions were filed for dismissal, by the defense; on May 30, 2003, the district court granted the joinder motion. The joint trial began on June 16, 2003; and on June 19, 2003, the jury sent a note to the trial

judge stating the jury was hung and could not arrive at a unanimous decision as to Cheatham; but they had concluded a verdict as to Carter. Mr. Cheatham's counsel then moved for a Motion to Dismiss against Cheatham, based upon the fact the first jury on the severed trial had been hung; and on the joined trial this jury had returned hung. The motion was denied and the jury was sent back and continued deliberations. On June 19, 2003, the jury sent a second clarification stating: "Government exhibits 3,9,11,14,16, these reports are on evidence which was presented against Jimmy Carter. We would like to know why Artrone Cheatham's name is on the file title." Cheatham requested a special instruction be made to the jury; and although the Court withdrew the said evidence from the jury, the Court refused special instructions requested; notwithstanding the prejudicial affect of the said information.

The jury then returned a verdict of guilty against Cheatham and on September 23, 2003, Cheatham was sentenced to 235 months imprisonment. Numerous objections were made at the pre-sentence hearing to the pre-sentence investigative report; that placed an additional amount of 30 kilograms of cocaine powder on Cheatham that was not found and proven to be true by the jury. Several appeal's were initiated on behalf of Cheatham at the appellate level; but due to numerous errors that were made by counsel, Cheatham did not receive proper review of his appellate issues. This Appeal now ensues.

QUESTION OF LAW PRESENTED & CASE LAW OF AUTHORITY

ARGUMENT--STANDARD OF REVIEW:

- I. WHETHER PETITIONER'S FIFTH AMENDMENT DUE PROCESS RIGHT WAS VIOLATED, AS WELL AS HIS SIXTH AMENDMENT RIGHT TO ASSISTANCE OF COUNSEL; DUE TO THE INEFFECTIVE ASSISTANCE OF COUNSEL BY ATTORNEY DONALD G. MADISON, FOR FAILING TO REQUEST A "JAMES" HEARING AND FAILING TO OBJECT TO THE ABSENCE OF THE HEARING, AS IT RELATED TO THERE BEING CORROBORATIVE EVIDENCE THAT CONNECTED CHEATHAM TO THE ALLEGED CONSPIRACY.

It was very evident from the Petitioner's first trial that ended in a mistrial, that there was no corroborative evidence nor substantial independent evidence that identified Cheatham as participating in the alleged conspiracy. Although Attorney Madison, was well aware of this very important fact, he yet allowed the Petitioner's Due Process Right's to be blatantly violated; when he failed to request a JAMES hearing during the trial court proceedings.¹ In the Petitioner's Direct Appeal Brief, Attorney Madison identified his incompetence and ineffectiveness when he submitted the following:

ATTORNEY MADISON: "The Court did not conduct a James hearing to determine whether there was corroborative evidence other than Carter's alleged statement made to Salery. The only evidence of a conspiracy was the testimony of Wallace Salery who testified that Carter said the other cocaine was Cheatham's when Carter allegedly picked up more than one kilo. Under United States v. James, 590 F.2d 575 (5th Cir.) (en banc), cert. denied, 442 U.S. 917, 99 S.Ct. 2836, 61 L.Ed.2d 283(1979), the trial judge

¹ See EXHIBIT "A-1"--Brief of Appellant--Attorney Donald G. Madison--Direct Criminal Appeal--Pages 28 & 29.

ATTORNEY MADISON, (CONT.): must determine the admissibility of a coconspirator's statements by deciding whether the government has offered substantial independent evidence of a conspiracy sufficient to go to the jury. Usually this is accomplished by holding a James hearing out of the presence of the jury. If, after the hearing, the judge is satisfied that there is substantial independent evidence that (1) a conspiracy existed, (2) that the coconspirator and the defendant against whom the statement is to be offered were members of the conspiracy, and (3) that the statement was made during the course and in furtherance of the conspiracy, then he may allow into evidence the statements of the coconspirator. Fed.R.Evid. 801(d)(2)(E). As an additional measure of protection the trial judge, on appropriate motion at the conclusion of all the evidence, must determine as a factual matter whether the prosecution has established the three facts listed above by a preponderance of the evidence. If the prosecution has failed to link the coconspirator statements to proof of a conspiracy, the judge must determine whether a curative instruction to the jury to disregard the coconspirator's statements will correct the default or whether a mistrial is mandated." James, 590 F.2d at 582-83. U.S. v. Alvarez, 696 F.2d 1307, 1310 (11th Cir. 1988).

Attorney Madison, went on to state in the brief that: "there was no testimony as to any agreement between Carter and Cheatham; no testimony as to how they conspired together or the elements of a partnership; no testimony as to whom Cheatham supposedly sold to; no evidence as to Cheatham cooking any cocaine. Carter's statements are the only statements implying a conspiracy, which violates U.S. v. James, id."

In the Assistant United States Attorney, Todd Brown's brief of response, he specifically identified and exposed Attorney Madison's ineffectiveness when he stated: "Because Cheatham never moved for such a hearing, nor did he object to the failure to

such a hearing in the case below, the decision to admit Salery's testimony must be reviewed under plain error analysis. Fed.R.Crim. P. 52(b). Pielego, 135 F.3d at 709. Cheatham has failed to meet his burden in this respect."²

Attorney Madison, forfeited the following protections for Cheatham during the trial court proceedings, by failing to request the JAMES hearing; as it related to the testimony of Wallace Salery:

A. Whether the alleged coconspirator's statements offered substantial independent evidence of a conspiracy sufficient to go to the jury.

B. Whether the alleged coconspirator and the defendant against whom the statement was to be offered, were members of the alleged conspiracy.

C. Whether a pretrial hearing outside the presence of the jury, would have allowed the trial judge to correctly and factually determine the admissibility of the alleged coconspirator statements.

United States v. James, 590 F.2d 575 (5th Cir.)(en banc), cert. denied, 442 U.S. 917, 99 S.Ct. 2836, 61 L.Ed.2d 283 (1979).

Attorney Madison, specifically presented to the Appellate Court that the trial court did not conduct a James hearing; and that Carter's statements were the only statements presented at the proceedings implying a conspiracy; which violated U.S. v. James. However, what Attorney Madison failed to acknowledge is that it was because of his failure to request the hearing, that resulted in his client's Due Process Rights being violated; and a man that was actually innocent of the alleged conspiracy being wrongfully convicted.

² See EXHIBIT "B-2"--Brief of Appelle--Assistant United States Attorney, Todd Brown--Direct Criminal Appeal--Page 10.

It is a well established fact in this circuit that it is the trial court who has the responsibility for determining those questions of fact relating to admissibility of the statements of coconspirators. Petitioner Cheatham, was placed in a prejudiced position by his own counsel; when Attorney Madison failed to request the James hearing. Attorney Madison, failed to understand and comprehend that a requested James hearing would have invoked the substantial evidence rule on the behalf of his client; rather than the obvious "preponderance" of evidence that was utilized to link Cheatham to the alleged conspiracy. United States v. Nixon, 418 U.S. at 701, 94 S.Ct. at 3104, 41 L.Ed. 2d at 1060. (there must be substantial, independent evidence of a conspiracy, at least enough to take the question to the jury).

At the conclusion of the Government's case, it was quite apparent that there was no testimony as to any agreement between Carter and Cheatham; no testimony as to how they conspired together or the elements of a partnership; no evidence or testimony as to whom Cheatham allegedly sold cocaine to. In actuality, the failure of Attorney Madison to put the statement of the alleged coconspirator to the James hearing, allowed an actual innocent man to be tried and convicted for a crime that he was in no way guilty of. Due to the fact that Attorney Madison, made this critical error during the trial court proceedings; it resulted in the issue failing to be reviewed at the appellate level. The cause for this default, and the actual prejudice from not having this issue reviewed, is directly due to the ineffective assistance of counsel

that was connected to the representation of Attorney Donald Madison; and the constitutional violation resulted in the conviction of one who was actually innocent. There is no procedural default or bar concerning this issue, due to the fact that a fundamental miscarriage of justice has taken place because of the incompetence and errors of Attorney Madison; and due to his ineffectiveness he allowed his client to be denied his Due Process Rights; and to be convicted of a crime that he was innocent of.

In this circuit, as well as in the Supreme Court, when a §2255 petitioner sets out detailed factual allegations, as Cheatham has concerning this claim; the petitioner is entitled to an evidentiary hearing. The corroboration to the petitioner's allegation is supported by the documented, Exhibits of Evidence; that are submitted with this claim. Potts v. Zant, 638 F.2d 727, 751(5th Cir. 1981) (citations omitted).³ Therefore, Petitioner Cheatham, respectfully request's that his conviction and sentence would be vacated and set aside; and that a hearing would be scheduled to grant him the relief that he is facually and legally entitled to.

³ In Bonner v. City of Prichard, 661 F.2d 1206(11th Cir.1981), the Eleventh Circuit adopted as binding precedent all decisions of the Fifth Circuit rendered prior to the close of business on September 30, 1981.

ARGUMENT--STANDARD OF REVIEW:

II. WHETHER SIXTH AMENDMENT RIGHT TO ASSISTANCE OF COUNSEL WAS VIOLATED BY THE INEFFECTIVE ASSISTANCE OF COUNSEL OF ATTORNEY DONALD MADISON; WHEN HE FAILED TO COMPLY WITH THE REQUIREMENTS SET FORTH IN RULE 28, FED.R.APP.P. IN THE DIRECT APPEAL APPELLANT BRIEF, AS IT RELATED TO WHETHER THERE WAS SUFFICIENT EVIDENCE TO SUPPORT THE CONVICTION. DUE TO COUNSEL'S PREJUDICIAL AND DEFICIENT REPRESENTATION IN SUBMITTING THE DIRECT APPEAL BRIEF; IT RESULTED IN A VERY IMPORTANT ISSUE BEING ABANDONED AND WAIVED FROM BEING REVIEWED BY THE APPELLATE COURT.

A review of the documented record will clearly show, as it relates to this issue, that Attorney Madison failed to legally and factually present the Petitioner's claim of lack of sufficient evidence to support the conviction, on Direct Appeal, in namely that:

A. That the conspiracy conviction under section 846, was not supported by sufficient evidence, due to the fact that the Government did not prove: (1) an agreement between the defendant and one or more persons, and (2) the object of which is to do either an unlawful act or a lawful act by unlawful means, in violation of United States v. Toler, 144 F.3d 1423, 1426 (11th Cir. 1998).

B. That there was absolutely no evidence that there was any agreement between Salery and Cheatham at any time, concerning the alleged conspiracy, in violation of United States v. Mercer, No. 97-3224 (11th Cir.1999).

C. That the evidence sufficiently lacked in establishing an agreement between Salery and Cheatham on the multitude of decisions and acts necessary to constitute a conspiracy, in violation of, United States v. Townsend, 924 F.2d 1385, 1394 (7th Cir.1991).

D. That the evidence lacked in supporting any details or references between Cheatham and other alleged conspirators, regarding the conspiratorial agreement, in violation of United States v. Carcaise, 763 F.2d 1328 (11th Cir.1985).

E. That the evidence lacked in supporting that there was any conversation at any time between Salery and Cheatham that an actual agreement was consummated to establish a conspiracy, in violation of United States v. Wright, 63 F.3d 1067, 1072 (11th Cir. 1995).

Rather than submitting the above stated lack of evidence and cited authorities in the Direct Appeal Brief; Attorney Madison, erroneously made ~~naked~~ claim's and vaguely submitted a general citation describing the standard of review in a sufficiency of the evidence issue.⁴ It is a well established fact in the Eleventh Circuit that a brief falling to meet requirements of Rule 28, Fed.R.App.P., may result in waiver or abandonment of issues. Mendoza v. U.S. Atty. Gen., 327 F.3d 1283, 1286 n. 4 (11th Cir.2003). Attorney Madison, specifically failed to comply with, as it related to the sufficiency of evidence claim, Rule 28(9):

A. Appellant's contentions and the reasons for them, with citations to the authorities and parts of the record on which the appellant relies; and

B. For each issue, a concise statement of the applicable standard of review (which may appear in the discussion of the issue or under a separate heading placed before the discussion of the issues.

Due to Attorney Madison's failure to sufficiently acquaint himself with the F.R.App.P., it resulted in the Appellate Court waiving review of a crucial issue that dealt directly with the illegal conviction of the Petitioner. A proper review of the sufficiency of the evidence issue at the appellate level; would have revealed that the trial court erred in not granting Cheatham's motion for judgment of acquittal at the close of the Government's case and at the end of the case, in namely that:

A. The evidence failed to show beyond a reasonable doubt that Cheatham agreed to participate in a conspiracy to distribute crack cocaine.

⁴ See EXHIBIT "C-3"--Brief of Appellee-Assistant United States Attorney, Todd Brown--Direct Criminal Appeal--Pages 16 & 17.

B. The evidence if reviewed de novo by the Court of Appeals, would have conclusively shown that a reasonable jury could not have concluded beyond a reasonable doubt; that Cheatham was guilty of the crime that he was charged with.

C. That a verdict of guilty will stand, "only" if there is substantial evidence to support it "unless no trier" of fact could have found guilt beyond a reasonable doubt.

D. That even when the evidence was viewed in the light most favorable to the government, it did not contain sufficient evidence to show beyond a reasonable doubt that Cheatham was guilty of the alleged conspiracy.

See: United States v. Lopez-Ramirez, 68 F.3d. 438, 440 (11th Cir. 1995); United States v. Lyons, 53 F.3d 1198, 1202, (11th Cir.1995); United States v. Toler, 144 F.3d 1423, (11th Cir.1998).

Although the evidence did not need to exclude every reasonable hypothesis of innocence in order to sustain a guilty verdict; however, a conspiracy conviction predicated on conjecture cannot be sustained. Attorney Madison, forfeited his client's legal right to appellate review relating to this issue; for failing to properly comply with the F.R.App.P Rule 28; thereby, clearly constituting ineffective assistance of counsel. See United States v. Hardy, 895 F.2d. 1331, 1335(11th Cir.1990); United States v. Kelly, 888 F.2d. 732, 741 (11th Cir.1989).

In analyzing Attorney Madison's performance under the standard of Ineffectiveness, it is quite evident that no reasonable attorney on appeal, would have made such elementary errors. The adversarial process on appeal did not work adequately, due to Attorney Madison's ineffectiveness. No competent counsel would have forfeited his client's right to appellate review; simply because he would not take the time or effort to acquaint himself with the Federal Rules of

Appellate Procedure. the documented errors made by Attorney Madison; are confirmed by the Rules; the brief of the Assistant United States Attorney; and the Court of Appeals that chose to deny appellate review on this particular issue; and but for counsel's unprofessional errors, the outcome of the proceeding would have been different..

Therefore, in light of the documented record presented, and because of the ineffective assistance of counsel verified by the petitioner's argument; the conviction and sentence of Petitioner Cheatham should be vacated and set aside in order to correct the manifest injustice that occurred in this instant case. The errors that were made by counsel were so serious that counsel was not functioning as the 'counsel' guaranteed the Petitioner by the Sixth Amendment. Strickland, 466 U.S. at 687. This is not a situation of second-guessing the strategy of Attorney Madison, as it relates to his representation; but rather a documented record of his deficient performance that created an extreme prejudiced position for the Petitioner.

It is quite obvious, by reviewing the Direct Appeal Brief that Attorney Madison filed on behalf of the Petitioner; that he impaired his ability to properly argue this issue due to attempting to present seventeen(17) different issues for appellate review. Only one(1) issue survived appellate review; and this issue that dealt directly with the evidence that was utilized to falsely convict Cheatham, was waived and abandoned because of Attorney Madison's errors. Therefore, ineffective assistance of counsel has been substantiated by the record.

ARGUMENT--STANDARD OF REVIEW:

III. WHETHER PETITIONER'S FIFTH AND SIXTH AMENDMENT RIGHTS WERE VIOLATED, AS IT RELATED TO THE TRIAL COURT IMPROPERLY INFLUENCING THE JURY; DUE TO ATTORNEY MADISON'S INEFFECTIVE ASSISTANCE OF COUNSEL FOR FAILING TO COMPLY WITH THE REQUIREMENTS SET FORTH BY RULE 28, FED.R.APP.P., WHEN HE ERRONEOUSLY FAILED TO PRESENT THE DIRECT APPEAL BRIEF PURSUANT TO THE PRESCRIBED RULE. DUE TO COUNSEL'S PREJUDICIAL AND DEFICIENT REPRESENTATION AT THE APPELLATE LEVEL; IT RESULTED IN A VERY IMPORTANT ISSUE BEING ABANDONED AND WAIVED FROM BEING REVIEWED BY THE APPELLATE COURT.

Once again, we need only to look at the documented record, to see the incompetence and ineffective assistance of counsel; that Attorney Madison provided on behalf of the Petitioner as it relates to this issue. Attorney Madison's errors were well identified by Assistant United States Attorney, Todd A. Brown, when he filed his Appellee Brief to the Court, stating the following factual position:

" These bald assertions are unsupported by any legal authority, with the exception of a few inapposite cases supporting a position related to whether and under what circumstances a trial judge may question a witness or comment on evidence. App. Br., at 44-45. Further, the appellants do not explain how they were prejudiced by the court's statements or rulings. Accordingly, as the appellant's brief does not comport with the requirements set forth in Rule 28, Fed.R.App.P., the appellant's argument fails. See Adler, supra, Mendoza, supra." 5

The issue that is now raised is not whether the trial court improperly influenced the jury, infringing Cheatham's due process right to an impartial jury and fair trial; but rather the factual evidence that Attorney Madison erroneously and due to his incompetence,

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See EXHIBIT "D-4"--Brief of Appellee--United States of America--Direct Criminal Appeal, Pages 19 & 20.

caused the Petitioner's issue as it relates to this argument; to have been waived and abandoned at the Appellate level. In deciding whether a counsel's performance was ineffective, a court takes the position, of considering the totality of the circumstances. See Murray v. Carrier, 477 U.S. 478, 496(1986). ("the right to effective assistance of counsel...may in a particular case be violated by even an isolated error of counsel if that error is sufficiently egregious and prejudicial").

In the instant case, the Petitioner does not rely on surrounding circumstances to prove ineffective assistance; but rather identifies the specific error and omission that was made by Attorney Madison, as it related to not comporting with the requirements set forth in Rule 28, F.R.App.P. We have an Officer of the Court in the person of Assistant United States Attorney, Todd A. Brown, who on record and under oath identifies the error of Attorney Madison at the Appellate level; and clearly states that it fails to comport with the requirements established by this rule. The failure of Attorney Madison, to comport with the rules established by the F.R.App.P., Rule 28, was objectively unreasonable and resulted in prejudice to the Petitioner, due to having his issue waived and abandoned at the appellate level. U.S. v. Williamson, 183 F.3d 458, 463-64(5th Cir.1999).

Prejudice was established against the Petitioner, concerning this issue, when Attorney Madison erroneously caused it to be waived for appellate review. The entitlement to effective assistance does not end when the sentence is imposed, but extends to one's first

appeal of right. See Evitts v. Lucey, 469 U.S. 387, 394, 105 S.Ct. 830, 83 L.Ed.2d 821 (1985); Green v. Johnson, 160 F.3d 1029, 1043 (5th Cir. 1998). The issues that Attorney Madison, caused to be forfeited at appellate review, were namely:

A. That there was conclusive proof from the documented record that the trial court improperly influenced the jury by its comments; thereby, prejudicing Cheatham, and infringing his due process right to an impartial jury and fair trial.

B. That there was conclusive proof from the documented record that the trial court on two occasions elicited testimony not provided until the Court's question.

C. That there was conclusive proof from the documented record that the trial court allowed testimony to be provided against Cheatham; where there were no notes regarding the event, and also violated Cheatham's due process rights established under the standard of MIRANDA.⁶

It was without question that the trial judge improperly interjected himself into the trial by questioning and answering for witnesses; clearly in violation of the precedent established in, United States v. Welliver, 601 F.2d 203, 208-09(5th Cir.1979); and United States v. Daniels, 572 F.2d 535, 541 (5th Cir.1978). The stated legal and factual argument was waived and abandoned; due to the errors that were made by Attorney Madison not comporting with the Federal Rules of Appellate Procedure.

The two-prong test to evaluate ineffective assistance claims as established by, Strickland v. Washington, 466 U.S. 668 (1984); clearly identifies that when counsel's performance falls below an objective standard of reasonableness, and his deficient performance

⁶ See EXHIBIT "E-5"--Brief of Appellant--Attorney Donald G. Madison--Direct Criminal Appeal--Pages 42--45.

places the defendant in an unreliable or fundamentally unfair outcome in the proceedings, that it constitutes ineffective assistance of counsel.

Both prongs have been proven by the presented documentation in this instant case, and the record clearly supports the claims of the Petitioner; as it relates to Ineffective Assistance of Counsel. Therefore, in the interest of justice, and to correct the miscarriage of justice that has taken place; the Petitioner's conviction and sentence should be vacated and set aside. Due to the extent of the evidence that was available to Attorney Madison, to raise on appellate review; it would have provided conclusive proof that plain error had taken place, due to the errors of the trial court. There is more than a reasonable probability that the results of Cheatham's instant appeal; would have been different but for Attorney Madison errors.

It has been a tactic of many Assistant United States Attorney's to attempt to utilize the argument of procedural default, when a petitioner on collateral attack presents events that transpired that violated his constitutional rights. Petitioner submits only the details of this particular argument, in order to establish before the court, the deficiency and prejudice that he suffered as a result of Attorney Madison's ineffective assistance of counsel. Therefore, the petitioner in no way has surrendered his legal and factual right to challenge the constitutional violation of ineffective assistance of counsel; and request's that the Court would grant him the relief that he now seeks by way of his 28 U.S.C. §2255 Petition.

ARGUMENT---STANDARD OF REVIEW:

IV. PROSECUTORIAL MISCONDUCT: THE GOVERNMENT ENGAGED IN PROSECUTORIAL MISCONDUCT BY:

PLACING ARTRONE CHEATHAM'S NAME ON THE FILE TITLE OF GOVERNMENT EXHIBITS 3, 9, 11, 14, 16, WHILE FULLY KNOWING THAT THE EXHIBITS WERE EVIDENCE THAT WERE PRESENTED SOLELY AND COMPLETELY AGAINST ALLEGED COCONSPIRATOR JIMMY CHARTER. THE GOVERNMENT UTILIZED THIS TACTIC TO COERCE, PERSUADE, MISLEAD, CONVINCE, AND MOVE THE JURY TO FIND CHEATHAM GUILTY, AFTER IT WAS IDENTIFIED THAT THE JURY WAS HUNG AND COULD NOT REACH AN UNANIMOUS DECISION CONCERNING CHEATHAM.

The trial of the Petitioner began on June 16, 2003. On June 19, 2003, the jury sent a note to the trial judge (Doc 252), stating the jury was hung and could not arrive at a unanimous decision as to Cheatham; but they had concluded a verdict as to Mr. Carter. It was quite obvious at this particular point that the jury could not unanimously agree beyond a reasonable doubt; that the Government had made their case against Cheatham that he was guilty of the alleged conspiracy.

A few of the outstanding reasons that contributed to the fact that created the hung jury, were:

A. Alleged statements that were solicited by the Prosecutor that were not disclosed to the defense, that in turn violated Cheatham's MIRANDA rights.

B. That there had been no evidence, no witness who had presented any evidence, of conspiracy, or that any "crack" cocaine was attributed to him.

C. Overruled and denied objections that requested proper jury instructions as it related to the difference between "powder" and "crack" that was already the established law of the case.

After the jury retired on June 19, 2003, and then identified by way of note that they could not come to a unanimous decision on Artrone Cheatham; the government requested a 11th Circuit ALLEN charge, over the objections of Attorney Madison, that noted:

- A. This was the second time the case had been tried.
- B. That the first trial against Cheatham resulted in a hung jury.
- C. That in the second trial Cheatham had been improperly tried with alleged co-defendant Carter; and it yet resulted in a hung jury against Cheatham.
- D. That it would be prejudicial against Cheatham to instruct the jury that they should find a verdict, as it may impact a juror to change their mind.
- E. That the case should now be dismissed.⁷

At this time of the Court proceedings, Attorney Madison objected to any exhibits remaining in the jury's view; due to the fact that the exhibits pertained only to Mr. Carter and not Mr. Cheatham; and to allow the jury to infer any basis or existence of those exhibits to support any inference of guilty or non-guilt would be inappropriate.⁸ In open court, when questioned by the trial judge, Prosecutor Brown, openly admitted that none of the exhibits of evidence was linked to Mr. Cheatham; and that Officer Sisson had testified that it was his opinion that the evidence was not linked to Mr. Cheatham. However, while acknowledging that none of the evidence in exhibits 3, 9, 11, 14, 16, was attributable to Cheatham; in the jury's second note after they had already informed the court that they could not reach a

⁷ See EXHIBIT "F-7"--- Brief of Appellant--Attorney Donald G. Madison--Direct Criminal Appeal--Page 16.

⁸ See EXHIBIT "G-8"-- Brief of Appellant--Attorney Donald G. Madison--Direct Criminal Appeal--Page 17.

unanimous decision in their first note, the Court noted:

COURT: "Ms. Johnson, I have another note from the jury, and I will read it so that I can ensure that it is accurate. We need a clarification on the following Government exhibits 3,9, 11,14,16. These reports are on evidence presented against Jimmy Carter. We would like to know why Artrone Cheatham's name is on the "file title". It's signed Betty Johnson." ⁹

Although, the Court ruled that the evidence had been withdrawn, and that the jury was told to continue their deliberations without regard to those exhibits; the premeditated deception of the government attaching Cheatham's name on the file created confusion and doubt concerning his innocence. This was well evidenced, when the jury then returned a guilty verdict against Cheatham on the charge of 50 grams or more.

As the Supreme Court stated in Berger v. United States, 295 U.S. 78, 88, 55 S.Ct. 629, 79 L.Ed 1314 (1935); a landmark case that is still applicable law throughout the United States, that:

"The United States is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. As such, he is in a peculiar and very definite sense the servant of the law, the twofold aim of which is that guilty shall not escape or innocence suffer. He may prosecute with earnestness and vigor, indeed, he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one."

⁹ See EXHIBIT "H-9--Brief of Appellant--Attorney Donald G. Madison--Direct Criminal Appeal--Page 18

In this instant case, the documented record clearly supports the fact that Prosecutor Todd A. Brown, failed to refrain from improper methods; in the fact that he falsely connected Cheatham to the exhibit file that had absolutely nothing to do with him. When it was extremely apparent that the jury could not reach a unanimous decision concerning the guilt of Cheatham in the alleged conspiracy the government sought a unfair, improper, and illegal advantage by attaching Cheatham's name to the exhibit file. While the government will attempt to excuse this misconduct, by suggesting that it was a mistake or that it was done inadvertently; the facts remain the same: the jury would not and could not unanimously reach a decision concerning Cheatham; until after the improper conduct of the government took place. In United States v. Rodriguez, 765 F.2d 1546,1559 (11th Cir. 1985); it was well established in this circuit that a prosecutor must refrain from improper methods calculated to produce a wrongful conviction. Rodriguez, 765 F.2d at 1559.

The Prosecutor's improper methods cannot be viewed as harmless, due to the fact of the impact that the trickery and deception, had on the jury's final decision. It is without question, that the Court's instruction to the jury to disregard the exhibits; could not correct the damage and prejudice that had already taken place against Cheatham. It is an established fact that an error may be so prejudicial that no cautionary instruction, however swiftly and forcibly given, can safely eradicate its effect. United States v. Solivan, 937 F.2d 1146, 1156 (6th Cir.1991). Due to the fact that there was no physical

evidence that connected Chatham to the conspiracy; no testimony that established that Cheatham conspired in any agreement to the conspiracy; no testimony as to whom Cheatham supposedly sold to; the jury could not unanimously render a decision against Cheatham until after they had been misled by the Government's misconduct. The prosecutor's misrepresentation to the jury about the exhibit evidence file, is tantamount to the knowing use of false evidence. On several cases in the Eleventh Circuit, cases have been reversed due to: prosecutor's misrepresentations to the jury about the witnesses' agreements, as it relates to sentence reduction; improper arguments by prosecutors where the government's case rested on the credibility of witnesses; improper methods as it related to plea agreements; and in this instant case an examination of the documented record will clearly show that the jury notified the court by way of note that : "We can not come to a unanimous decision on Artrone Cheatham. We have concluded the verdict on the defendant Jimmy Carter"¹⁰ See: United States v. Alate, 47 F.3d 1103 (11th Cir.1995); Davis v. Zant 36 F.3d 1538, 1550 (11th Cir. 1994); United States v. Blakey, 14 F.3d 1557 (11th Cir.1994); and United States v. Hands, 184 F.3d 1322(11th Cir. 1999). Bare assertions and naked claims are not needed concerning this issue, for the documented record clearly shows the Prosecutorial Misconduct of Assistant United States Attorney, Todd A. Brown.

¹⁰ See EXHIBIT "I-10"-- Note from the jury--Stamped filed on June 19, 2003; and signed by Foreperson--Betty Johnson.

ARGUMENT---STANDARD OF REVIEW:V. SENTENCING ISSUE:

PETITIONER'S SIXTH AMENDMENT RIGHT TO TRIAL BY JURY WAS VIOLATED AT SENTENCING BECAUSE OF THE INEFFECTIVE ASSISTANCE OF COUNSEL OF ATTORNEY DONALD G. MADISON; DUE TO THE FACT THAT ATTORNEY MADISON ERRONEOUSLY ATTEMPTED TO BASE HIS OBJECTION AND ARGUMENT ON, UNITED STATES V. SIMPSON, THAT DEALT SPECIFICALLY WITH RELEVANT CONDUCT THAT PRECEDED THE CONSPIRACY TIME FRAME.¹¹

Petitioner submits that the documented record and exhibit will clearly set forth the fact of Attorney Madison's erroneous attempt to utilize the SIMPSON case to challenge relevant conduct for the purposes of sentencing, as is noted by the following:

COURT: "In reviewing the case that has been submitted by the defense, case of United States vs. Darrell Simpson, cited at 228 F.3d 1294, the court finds that the argument of the defendant, although accurate to the facts contained in this case, being the Simpson case, it does not necessarily---I do not find that the argument of counsel is persuasive to the facts of this case, United States of America vs. Cheatham."

What was at issue at the time of the Petitioner's sentencing hearing was the fact that the jury had returned a specific, special verdict that found the Petitioner guilty of 50 grams or more of Cocaine base only.¹² It must be noted by the Court, and should have been known to Attorney Madison, that a special verdict form utilized by a jury, sets forth the following standards:

- A. That the special verdict stands as a final decision of the special matters with which it deals.

¹¹ See EXHIBIT "J-11"--Sentencing Transcript--Pages 16,17, and 22&23--Honorable Mark E. Fuller, Judge.

¹² See EXHIBIT "K-12"--Verdict of the Jury--Signed by Foreperson Betty Johnson---June 19, 2003.

- B. That the special verdict sets forth the essential elements of the offense, or the conviction is invalid.
- C. That the special verdict specified and designated the type, and amount of drugs that the Petitioner could only be held responsible for.
- D. That the Petitioner's sentencing exposure could only be determined by what the special verdict set forth, in response to what was alleged in the charging indictment.
- E. That whatever is not found in the special verdict is **considered as not existing**.
- F. That the special verdict is solely responsible for finding the **only** facts that are material to the case.

See 75B Am Jur 2d §1847 & 1848.

The documented record clearly shows on the special verdict form of Artrone Cheatham, that he was eventually found guilty of: "Conspiracy to possess with intent to distribute--Cocaine base ("crack cocaine")--Weighing 50 grams or more." (Exhibit "K-12"); and as stated above concerning the set standards of a special verdict, that whatsoever is not found in the special verdict is considered as not existing. However, Attorney Madison, allowed the Petitioner's Due Process rights to be blatantly violated; due to the fact that he failed to direct the court's attention to the set and prescribed standards of the special verdict form that set the **only** criteria that Cheatham could be held responsible for.

What was readily available to Attorney Madison at the Petitioner's sentencing hearing, was the standard established in the landmark case known as, *In re Winship*, 397 U.S. 358, 363(1970); that established that the reasonable doubt requirement "has vital role in our criminal procedures." The special verdict form specifically gave notification

that the only thing that had been unanimously decided by the jury beyond a reasonable doubt was what the jury stated in the form. However, at the sentencing hearing, the trial court placed an additional 30 kilograms of cocaine powder on the Petitioner; that the jury did not find the Petitioner guilty of by the reasonable doubt standard.

The reasonable doubt standard set forth in, In re Winship, has been expressly confirmed that: "Judicial fact-finding that enhances sentences under the preponderance of the evidence standard, which was never charged or submitted to a jury nor proven beyond a reasonable doubt, violates a defendant's Sixth Amendment rights under the Constitution." United States v. Booker, 128 S.Ct. 73 (2005) . The standard that was in violation at the Petitioner's sentencing hearing, that failed to be articulately presented by Attorney Madison was the very fact that:

"The Supreme Court has acknowledged that the standard of proof can significantly impact factfinding accuracy and society's confidence in the result. The reasonable-doubt standard plays a vital rule in the American scheme of criminal procedure. It is a prime instrument for reducing the risk of convictions resting on factual error; for the reasonable-doubt standard is indispensable to command the respect and confidence of the community in applications of the criminal law."

[In re Winship, 397 U.S. 358, 363, 364 (1970); Ivan V. v. City of New York, 407 U.S. 203, 205 (1972).]

Attorney Madison, could have presented before the sentencing court, the very fact that, the purpose of the Petitioner having a special verdict form to specifically establish what he was being found guilty of by the jury; was to insure and protect the truth-finding function from being substantially impaired.

In, Hankerson v. North Carolina, 432 U.S. 233 (1977); it clearly established that the constitutional right of Due Process, required proof of all elements of crime beyond a reasonable doubt and voiding presumptions that shift burden of proof to defendants. The Petitioner notes to the court, that the existing precedent, that was available to Attorney Madison at sentencing; failed to be utilized, and resulted in his Due Process Rights being blatantly violated. The Fifth Amendment required proof beyond a reasonable doubt, not by a preponderance of evidence, of any fact that increases the sentence beyond what could have been lawfully imposed on the basis of facts found by the jury or admitted by the defendant. Booker, 125 S.Ct. At 798, n. 6 (THOMAS, J, dissenting). In the instant case of the petitioner, it is an established fact that the preponderance of evidence standard that the Government utilized to increase his guideline range had no statutory basis; and clearly violated the Petitioner's Fifth amendment rights.

The reasonable doubt standard, that was violated at the sentencing hearing, was utilized by the Government to increase and enhance the Petitioner's sentencing exposure by 115 months. The documented record clearly shows exactly what the jury found Cheatham guilty of; that in essence would have rendered a 120 month mandatory sentence at the time of the sentencing hearing. Since the time of the Petitioner's hearing, the Supreme Court held in, United States v. Booker, 124 S. Ct. 738 (2005); before Cheatham's sentence was final; that judicial fact-finding that enhances sentences under the preponderance of the

evidence standard, which was never charged or submitted to a jury nor proven beyond a reasonable doubt, violates a defendant's Sixth Amendment right under the Constitution. This standard confirms the fact that because Cheatham's sentence was determined based on Guideline enhancements decided by a judge under a preponderance standard; Cheatham's "legal right to a lesser sentence" was violated under the Sixth Amendment right to trial by jury. Petitioner Cheatham, had an absolute right to have the facts surrounding: (1) the elevation of his offense from 50 grams or more of cocaine base, (for which he was convicted and stipulated to at trial) to an extra 30 kilo's of cocaine powder reached by "relevant conduct" and dismissed conduct; to be decided by a jury under the reasonable doubt standard. The sentence of the Petitioner is clearly illegal, violating the maximum authorized by law; and in direct conflict with what the jury found Cheatham guilty of, and must be vacated, set aside and corrected.

A final note on counsel's ineffectiveness took place when Attorney Madison erroneously attempted to file an incorrect, untimely Motion pursuant to Fed. R. Crim.P. Rule 35(a); that was not requested, solicited, nor authorized by the Petitioner. Once again, Attorney Madison demonstrated his deficiency and incompetence in understanding the Federal Rules of Criminal Procedure, in namely that Rule 35(a) provides that:

"Within 7 days after sentencing the court may correct a sentence that resulted from "arithmetical, technical, or other clear error." The Order of the Court went on to state: "Thus assuming (without so

finding) that the movants set forth claims falling under the ambit of Rule 35(a) an attempt to challenge their sentences under that rule would be untimely." ¹³

These are exactly the errors that Attorney Madison, made continuously throughout the Petitioner's appellate process in not comporting to the rules; not establishing the clear case law precedent already established in the Eleventh Circuit; and thereby placing Cheatham in a prejudiced position throughout the proceedings. Due to his errors, Attorney Madison, had to submit a motion to withdraw the faulty Rule 35(a) motion that he had attempted to submit to the District Court on behalf of the Petitioners. Attorney Madison, had to acknowledge that: "The undersigned counsel may have erroneously denoted the Motion as a Rule 35 motion as opposed to a Rule 44 request for Rehearing." ¹⁴ This pattern of incompetence was not connected to one isolated event; but rather a consistent pattern that clearly reveals the Ineffective Assistance of Counsel on the behalf of Attorney Madison. The Petitioner has clearly, by way of the numerous documentation, proven that Attorney Madison was ineffective in his representation of assisting the Petitioner.

¹³

See EXHIBIT "L-13"--Order of the Court--United States Magistrate Judge, Charles S. Coody.

¹⁴

See EXHIBIT "M-14"-- Motion to withdraw Petition -- filed by Attorney Donald G. Madison---Erroneous Motion.

REQUEST FOR EVIDENTIARY HEARING

Petitioner has pleaded facts and presented sufficient evidence by way of the documented record, and exhibits of evidence that clearly shows that he is entitled to an evidentiary hearing.

28 U.S.C. 2255 reads, in pertinent part, as follows:

Unless the motion, and the files, and the records of the case **conclusively show** that the prisoner is entitled to no relief, the court shall cause notice thereof to be served upon the United States Attorney, grant a prompt hearing thereon, determine the issues, and make findings of fact and conclusions of law with respect thereto. If the court finds that the judgment was rendered without jurisdiction, or that the sentence imposed was not authorized by law or otherwise open to collateral attack, or that there has been such a denial or infringement of the constitutional rights of the prisoner as to render the judgment vulnerable to collateral attack, the court shall vacate and set the judgment aside and shall discharge the prisoner or resentence him or grant a new trial or correct the sentence as may appear appropriate.

It has been well established in this circuit by way of Aron vs. United States, 291 F.3d 708, 714 (11th Cir. 2002):

" As we have previously stated, if the petitioner "alleges facts that, if true, would entitle him to relief, then the district court should order an evidentiary hearing and rule on the merits of his claim."

The law is clear that, in order to be entitled to an evidentiary hearing, a petitioner need only allege--not prove--reasonably specific non-conclusory facts that, if true, would entitle him to relief. If the allegations are not affirmatively contradicted by the record and the claims are not patently frivolous, the district court is required to hold an evidentiary hearing. It is in such a hearing that the

petitioner must offer proof. Petitioner Cheatham, has presented by way of the documented record of the Court; exhibits of evidence from the brief of his previous counsel as well as statements that were made under oath by the Assistant United States Attorney; that clearly substantiate and proves his claim of Ineffective Assistance of counsel. Petitioner submits the following official request for aid and assistance that will clearly verify his submitted claims at the evidentiary hearing:

1. A subpoena of Assistant United States Attorney, Todd A. Brown, to testify under oath to the following allegations:

A. The extent of his willful and knowingly intent to falsely place the Petitioner's name on the evidence file.

B. The extent of the arrangements that were made on behalf of the Government's key witness, Wallace Salery, in order to solicit his fabricated testimony against the Petitioner.

C. The extent of the sentence reduction that was given to the Government's key witness, Wallace Salery, after he provided his testimony and statements at the Petitioner's trial proceedings.

D. Any other allegations that have been raised in the Petitioner's Brief, concerning the intentional misconduct of Assistant United States Attorney, Todd A. Brown.

2. A subpoena of Defense Counsel, Donald G. Madison, to testify under oath to the following allegations of Ineffective Assistance of Counsel.

A. The extent of his ineffectiveness to comport with the requirements as identified by Rule 28 of the Federal Rules of Appellate Procedure; especially as it related to whether there was sufficient evidence to support the conviction of the Petitioner.

B. The extent of his ineffectiveness to request a "JAMES" hearing on behalf of the Petitioner during the trial proceedings; and the

legal and factual explanation on why he placed the Petitioner in such a prejudiced position.

C. The extent of his ineffectiveness to comport with the requirements as identified by Rule 28 of the Federal Rules of Appellate Procedure; especially as it related to whether the trial court improperly influenced the jury.

D. The extent of his ineffectiveness at sentencing, when he erroneously attempted to base his objection and argument on the SIMPSON case; failing to present to the court the legal and factual argument of a violation of the special verdict decision made by the jury; in violation of the Petitioner's Due Process Rights.

An Evidentiary Hearing, where the key participants, would have to provide their testimony and statements under oath; will serve to affirm and verify the Petitioner's claims. It is without question, that the District Court will have to make a determination whether the error or errors prejudiced some aspect of this case. Prejudice is a "reasonable probability" as a probability sufficient to undermine confidence in the outcome. A reasonable probability is a standard utilizing a less demanding standard than "more likely than not." Strickland, 466 U.S. at 693-94, 104 S.Ct. at 2052. Harding v. Sternes, 380 F.3d 1034, 1045(7th Cir.2004) defines "reasonable probability" as follows:

A reasonable probability is a probability sufficient to undermine confidence in the outcome. Id. at 694, 104 S.Ct. 1052. "Even if the odds that the defendant would have been acquitted had he received effective representation appear to be less than fifty percent, prejudice has been established so long as the chances of acquittal are better than negligible." Hampton vs. Leibach, 347 F.3d. 219, 246 (7th Cir. 2004).

Therefore, in conclusion, the Petitioner respectfully request's

the following:

1. That the conviction and sentence would be vacated and set aside; and that he would be released from Federal Custody immediately.

2. In the alternative, that an evidentiary hearing would be ordered and scheduled immediately, pursuant to Rule 8 of the Section 2255 Proceedings; and that transcripts and records of prior proceedings would be reviewed to determine the fact that an evidentiary hearing is warranted.

3. That subpoena's would be issued and ordered by the Court for United States Attorney Todd A. Brown; as well as the Petitioner's previous counsel, Donald G. Madison; in order to depose the stated Officers of the Court under oath to ascertain the Petitioner's claims.

4. That the petitioner gives full consent for this motion to be referred to a Magistrate Judge, as the District Court Judge sees fit; in order for the Magistrate Judge to conduct hearings and to file proposed findings of fact and recommendations for disposition.

5. That the Petitioner reserves the right to file objections if necessary, to the proposed findings and recommendations of the Magistrate Judge; as provided by the local court rules.

6. That the Court would appoint Counsel to represent the Petitioner in his post-conviction proceedings. Due to the fact that the Petitioner submits that an evidentiary hearing may be warranted; this Court has jurisdiction to appoint counsel under 18 U.S.C. § 3006A.

7. That the Court would order a production of the Government's witness, Wallace Salery, statements, interviews, agreements, offer for sentence reduction for substantial assistance; and any off the record statements given to the Prosecutor or his designated staff or Law Enforcement Authorities; pursuant to the Federal Rule of Criminal Procedure 26.2(a)--(d) and (f). The production of this material will provide great disclosure concerning the Petitioner's claims.

WHEREFORE, based upon the foregoing, Petitioner respectfully request's that the conviction and sentence would be vacated, and set aside; and any other relief that the Court deems fair and just.

I, Artrone Cheatham, verify and state under penalty of perjury that the foregoing is true and correct, to the best of my known ability.

Mar 1, 2006
(Executed Date)

Artrone Cheatham
ARTRONE CHEATHAM, PETITIONER PRO SE.

CERTIFICATE OF SERVICE

I, Artrone Cheatham, Movant/Petitioner pro se, do certify and affirm that the Motion entitled: "Memorandum in Support of Motion Pursuant to 28 U.S.C. §2255 To Vacate, Set Aside, or Correct Sentence By a Person in Federal Custody;" was mailed on the 1, day of Mar, 2006, by way of first class postage prepaid mail to the following:

United States District Court
For the Middle District of Alabama
Clerk's Office
P.O. Box 711
Montgomery, Alabama 36101-0711

RESPECTFULLY SUBMITTED,

Artrone Cheatham
ARTRONE CHEATHAM, MOVANT/PETITIONER, PRO SE
Register No. # 11101-002
Federal Correctional Complex-Low
P.O. Box 9000
Forrest City, AR 72336-9000